

CHAPTER 180
HOSPITAL PROTOCOL FOR DONOR REQUESTS

Rescinded IAB 4/4/90, effective 5/9/90; see 641—51.4(5) to 641—51.4(11)

CHAPTERS 181 to 189
Reserved

CHAPTER 190
CONSENT FOR THE SALE OF GOODS AND SERVICES

641—190.1(68B) General prohibition. An official shall not sell, either directly or indirectly, any goods or services to individuals, associations, or corporations subject to the regulatory authority of the department without obtaining written consent as provided in this chapter.

641—190.2(68B) Definitions.

“Department” shall mean the Iowa department of public health.

“Official” means an officer of the state of Iowa receiving a salary or per diem whether elected or appointed or whether serving full-time or part-time. Official includes, but is not limited to, supervisory personnel and members of state agencies and does not include members of the general assembly or legislative employees.

Where the term “official” is used in this chapter, it includes a firm of which any of those persons is a partner and a corporation of which any of those persons holds 10 percent or more of the stock, either directly or indirectly, and the spouse and minor children of any of those persons.

641—190.3(68B) Conditions of consent for officials.

190.3(1) Consent shall not be given to an official unless all of the following conditions are met:

- a.* The official’s job duties or functions are not related to the department’s regulatory authority over the individual, association or corporation, or the selling of the good or service does not affect the official’s job duties or functions.
- b.* The selling of the good or service does not include acting as an advocate on behalf of the individual, association or corporation to the department.
- c.* The selling of the good or service does not result in the official selling a good or service to the department on behalf of the individual, association or corporation.

190.3(2) The department concludes that the following sales of goods or services do not, as a class, constitute the sale of a good or service which affects an official’s job duties or functions. Individual application and approval are not required for the sale of goods or services meeting the requirements set forth below unless there are unique facts surrounding a particular sale which would cause that sale to affect the official’s duties or functions, would give the buyer an advantage in its dealing with the agency, or otherwise present a conflict of interest.

- a.* Medical treatment of a patient within the official’s regular practice at standard fee.
- b.* Sale of goods or services for which the official receives only reimbursement of expenses and costs.
- c.* Employment as a regular, salaried employee of a business and not as an independent contractor. However, sales by the business will be considered sales by the official and, therefore, subject to these rules if the official is a partner in the firm or holds 10 percent or more of the stock of a corporation either directly or indirectly.

641—190.4(68B) Conditions of consent for employees. Rescinded IAB 2/5/92, effective 3/11/92.

641—190.5(68B) Application for consent. An application for consent must be in writing and signed by the official requesting consent. The application must:

1. Provide a clear statement of all relevant facts concerning the sale.
2. State why the official or employee should be permitted to engage in the sale.
3. State the amount of compensation.
4. Explain how compensation is to be determined and why the sale would not create a conflict of interest or provide financial gain by virtue of one's position within the agency.

641—190.6(68B) Who may consent. The board of health is authorized to consent to sales by the director where permitted by these rules. The department of management is authorized to consent to sales by board members where permitted by these rules.

641—190.7(68B) Effect of consent. The consent must be in writing. The consent is valid only for the activities and period described in it and only to the extent that material facts have been disclosed and the actual facts are consistent with those described in the application. Consent can be revoked at any time by notice to the official.

641—190.8(68B) Public information. The application and consent are public records, open for public examination, except to the extent that disclosure of details would constitute a clearly unwarranted invasion of personal privacy or trade secrets and the record is exempt from disclosure under Iowa law.

641—190.9(68B) Effect of other laws. Neither these rules nor any consent provided under them constitutes consent for any activity which would constitute a conflict of interest at common law or which violates any applicable statute or rule. Despite agency consent under these rules, a sale of goods or services to someone subject to the jurisdiction of the agency may violate the gift law, bribery and corruption laws, etc. It is the responsibility of the official to ensure compliance with all applicable laws and to avoid both impropriety and the appearance of impropriety.

These rules are intended to implement Iowa Code section 68B.4.

[Filed 7/17/91, Notice 4/17/91—published 8/7/91, effective 9/11/91]

[Filed 1/10/92, Notice 11/13/91—published 2/5/92, effective 3/11/92]